

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No.3567 of 2007 (O&M)

Date of Decision: 26.11.2007

Harbans Singh

..Appellant

Vs.

Amritsar Improvement Trust

..Respondent

Coram: Hon'ble Mr. Justice Vinod K.Sharma

Present: Mr.K.S.Rekhi, Advocate,
for the appellant.

Vinod K.Sharma,J. (Oral)

This regular second appeal has been filed against the judgments and decrees passed by the learned courts below vide which the suit filed by the plaintiff-appellant for permanent injunction restraining the defendant through its officials from demolishing in any manner whatsoever the property i.e. M/s Golden Motors & Gurmeet Motors, built on Khasra No.1995-96 opposite Nathe Ka Deram Mata Mandir, Krishna Square, Batala Road, Amritsar has been ordered to be dismissed.

Plaintiff-appellant filed this suit on the plea that he was tenant, however, the name of landlord was not disclosed. The plaintiff claimed that

he was entitled to retain the possession till dispossessed in accordance with law on the basis of tenancy.

On notice Amritsar Improvement Trust contested the suit on the ground of locus standi. It was also claimed that the suit was barred by principle of res judicata and the plea of suit being barred under Order 2 Rule 2 of the Code of Civil Procedure was also taken. It was claimed that the plaintiff cannot get injunction against true owner.

Learned courts below observed that the land was acquired vide award No.8 of 1963-64 which was announced on 3.6.1964. It was also the case of the defendant that Amritsar Improvement Trust has developed the area by spending huge amount of money. It was claimed that neither the plaintiff nor his landlord has any right or interest in the suit property. It was further claimed that the officials of the defendant visited the plot along with the Ilaqa Magistrate to demolish unauthorised construction but the same was resisted by the people. The claim of the appellant that he was entitled to notice was also disputed.

Learned courts below on the basis of evidence brought on record came to the conclusion that the plaintiff has not only failed to prove that he was tenant under Jagir Singh but also failed to disclose the name of landlord. In any case, once the land was acquired the same had vested in State free from all encumbrances, the right and interest of the plaintiff ceased to exist in the land in dispute.

The suit of the plaintiff was dismissed and the appeal filed against the said judgment was dismissed by the learned lower appellate

court.

Learned counsel appearing on behalf of the appellant contends that the judgment and decrees of the learned courts below cannot be sustained as they were not justified in non-suiting the appellant merely because he has failed to disclose the name of his landlord. Learned counsel appearing on behalf of the appellant contends that it is only the Collector who could take possession of the land and not Amritsar Improvement Trust.

The plea of the appellant cannot be accepted. Once it was the admitted case that the land stood acquired by the Amritsar Improvement Trust, Amritsar, the said land vested in the Amritsar Improvement Trust after passing of an award in favour of the land owners. In order to claim the tenancy or any right in the property it was incumbent upon the appellant to at least disclose the name of his landlord. Once he has failed to do so it could hardly be believed that he was a tenant. Learned courts below were, therefore, justified in coming to the conclusion that unauthorised occupant has no right to claim injunction against true owner.

No question of law much less substantial question of law arises in this appeal for the consideration of this court.

Dismissed.

26.11. 2007

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(Vinod K.Sharma)
Judge